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January 30, 2023

**VIA ECF**

Honorable Brian Cogan  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Justin Sherwood v. City of New York, et al., 22-cv-7505 (BC)

Your Honor:

I am a Senior Counsel in the office of Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, representing defendants City of New York and Deputy Inspector Rana. Defendants write to inform the Court the timeline of this office's decision to decline representation of defendant Officer John Madera, in hopes that the Court will reconsider its prior decision to deny a *sua sponte* extension of time for his response to the Complaint. (See ECF Entry dated January 8, 2023). Plaintiff takes no position on this request.

By way of background, plaintiff alleges, *inter alia*, claims of First Amendment Retaliation for reporting cars that were illegally parked in bike lanes, sidewalks, and bus stops. This office initially wrote the Court on January 5, 2023, noting it had not made a representation determination of Officer Madera and requesting, *inter alia*, the Court, *sua sponte*, grant an extension of time for Officer Madera to respond to the Complaint. On January 19, 2023, this office and plaintiff jointly wrote to the Court in advance of the Initial Conference, and this office advised that we had made a determination to decline representation of Officer Madera, pursuant to General Municipal Law 50-k, and were in the process of notifying Officer Madera. (See ECF No. 15). The undersigned was on a pre-scheduled vacation from January 20 through January 23, 2023. At the Initial Conference on January 24, 2023, the Court directed plaintiff to request the Clerk enter default against Officer Madera, which plaintiff did on January 25, 2023. (See ECF No. 19). On January 26, 2023, this office notified Officer Madera of its decision to decline representation.

As such, given the delay in notifying Officer Madera of this decision, and the understandable difficulty he may receive in obtaining counsel with a pending request for default judgment, we hope that the Court may, *sua sponte*, reconsider its decision denying Officer

Madera an extension of time to respond to the Complaint. Further, based on plaintiff's representations at the Initial Conference and the Court's order, defendants expect plaintiff to file an Amended Complaint on or about February 7, 2023. While we understand, as a general practice, Your Honor does not grant *sua sponte* extensions of time, given these considerations, we request reconsideration of the Court's is decision denying Officer Madera an extension of time to respond to the Complaint.<sup>1</sup>

Thank you for your consideration herein.

Respectfully submitted,

/s/

John Schemitsch

*Senior Counsel*

cc: **VIA ECF**  
*All Counsel of Record*

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<sup>1</sup> The undersigned has spoken to Mitch Garber at Worth, Longworth, & London, LLP, whose firm typically represents NYPD officers whom the Office of Corporation Counsel has declined to represent, and he has indicated that they would be reluctant to enter an appearing given the pending request for a default.